

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|--------------------------------|
| DAVID M. WILLIAMS, | § |
| | § No. 12, 2011 |
| Defendant Below- | § |
| Appellant, | § |
| | § Court Below—Superior Court |
| v. | § of the State of Delaware |
| | § in and for New Castle County |
| STATE OF DELAWARE, | § Cr. ID No. 9803018202B |
| | § |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: March 29, 2011

Decided: May 4, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 4th day of May 2011, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, David M. Williams, filed an appeal from the Superior Court's December 20, 2010 order denying his motion to correct a clerical error in his criminal offender status sheet under Superior Court Criminal Rule 36 and its February 7, 2011 order denying his motion for transcripts at State expense. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior Court's judgment on the ground

that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) The record before us reflects that, in April 1998, Williams was indicted by the grand jury in three separate bills of indictment. He did not appear for arraignment and a *capias* was issued for his arrest. In July 1998, Williams was apprehended and another indictment issued, charging him with additional offenses. In October 1998, a superseding indictment issued, which incorporated all four previous indictments. The superseding indictment was designated as Criminal Identification Number (“Cr.ID No.”) 9803018202. Four counts of the superseding indictment were later severed and designated as Cr.ID No. 9803018202B.

(3) In August 1999, Williams was found guilty of two counts of Attempted Burglary in the Second Degree and one count each of Possession of Burglar’s Tools and Criminal Mischief. He was sentenced on those convictions in October 1999.² Williams’ convictions were affirmed by this Court on direct appeal.³ The record reflects that Williams’ Department of Correction (“DOC”) offender status sheet lists his August 1999 convictions under Cr. ID No. 9803018210, which was closed when the superseding

¹ Supr. Ct. R. 25(a).

² On that date, Williams also was sentenced on convictions of Forgery in the Second Degree, Attempted Escape in the Third Degree and Possession of a Deadly Weapon By a Person Prohibited.

³ *Williams v. State*, Del. Supr., No. 507, 1999, Walsh, J. (May 30, 2000).

indictment was returned in October 1998. Williams' motion for correction of clerical error is based upon this erroneous listing in the DOC record.

(4) In this appeal, Williams claims that the Superior Court improperly denied his motion for correction of a clerical error and his motion for transcripts at State expense.

(5) The function of Rule 36 is to permit correction of "[c]lerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission. . . ." There is nothing in the language of the Rule suggesting that it may be used to correct errors in the records of the DOC and Williams may not rely on the Rule for that purpose.

(6) Williams' claim that the Superior Court improperly denied his motion for transcripts at State expense is likewise without merit. While an indigent defendant is entitled to transcripts at State expense to pursue a direct appeal, there is no such right with respect to postconviction relief absent a showing of just cause.⁴ In the absence of a showing of just cause, we find no abuse of discretion on the part of the Superior Court in denying Williams' request for transcripts at State expense.

(7) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by

⁴ *Johnson v. State*, Del. Supr., No. 641, 2006, Ridgely, J. (Jan. 18, 2008); *Warrington v. State*, Del. Supr., No. 41, 2005, Berger, J. (Jan. 24, 2006).

settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice